

NOT TO BE PUBLISHED

California Rules of Court, rule 8.1115(a), prohibits courts and parties from citing or relying on opinions not certified for publication or ordered published, except as specified by rule 8.1115(b). This opinion has not been certified for publication or ordered published for purposes of rule 8.1115.

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

THIRD APPELLATE DISTRICT

(Yuba)

THE PEOPLE,

Plaintiff and Respondent,

v.

OSCAR MENESES ROSAS,

Defendant and Appellant.

C053242

(Super. Ct. No. CRF0621)

After his motion to suppress evidence was denied, defendant Oscar Meneses Rosas pled no contest to residential burglary and admitted he used a firearm during the offense. The court sentenced him to eight years in prison.

On appeal, defendant contends the trial court erred in denying his suppression motion. Disagreeing with defendant, we affirm the judgment.

FACTUAL AND PROCEDURAL BACKGROUND

As defendant's appeal challenges only the ruling on his suppression motion, we set forth the following facts as developed at the suppression hearing.

At 6:26 p.m. in June 2005, Deputy Joseph Pomeroy of the Yuba County Sheriff's Department was dispatched to Buttercup Lane in response to a home invasion robbery. According to the dispatch call, the perpetrators were "'two Hispanic male adults'" with shotguns and the "suspect vehicle" was a green Ford Expedition last seen heading toward McGowan Parkway.

Deputy Pomeroy arrived at the house three minutes after the dispatch call and spoke to the victims. The victims described the suspect vehicle as a light green Ford Expedition "[h]eading eastbound on Buttercup toward McGowan." Deputy Pomeroy provided this information to the dispatcher, and then heard a radio dispatch again alerting officers to be on the lookout for two Hispanic males in a green Ford Expedition.

Deputy William Wilcox, who was on routine patrol, also heard the radio dispatch. A deputy in another car, David Haresh, radioed that he spotted a car matching the dispatcher's description heading toward the direction in which Wilcox and his partner were traveling. There was no other "traffic regarding other green Expeditions."

At about 6:36 p.m., Deputy Haresh stopped a green Ford Expedition "[s]everal miles" away from Buttercup Lane. He stopped the car because it "somewhat matched" the description of the suspect car. At the time of the stop, Deputy Haresh believed the car had "several occupants." After Deputy Haresh stopped the car, he realized there were three men and two women in the car. Defendant was one of the occupants. A search of the car uncovered a .45-caliber pistol under the passenger seat.

The magistrate denied defendant's motion to suppress the evidence, reasoning "the traffic stop by Reserve Deputy Haresh was based on a sufficiently particularized description of the vehicle (a green Ford Expedition), which along with the ethnicity of the occupants (Hispanic), and the short period of time that had elapsed (10 minutes after the commission of the crime) passes constitutional muster."

On appeal, defendant contends the trial court erred in denying his motion to suppress the evidence because Deputy Haresh's stop of the Ford Expedition was not based on a reasonable suspicion that he had committed a crime.

DISCUSSION

A police officer can stop a motorist "only if the facts and circumstances known to the officer support at least a reasonable suspicion that the [motorist] has violated the Vehicle Code or some other law." (*People v. Miranda* (1993) 17 Cal.App.4th 917, 926.) The reasonable suspicion must be based on specific, articulable facts that form an objective inference that the person is involved in criminal activity. (*People v. Uribe* (1993) 12 Cal.App.4th 1432, 1438.)

Here, Deputy Haresh testified that he stopped the car not based on Vehicle Code violations but, rather, because it "somewhat matched" the description of the suspect car. The question therefore becomes whether the facts known to Deputy Haresh when he stopped the Ford Expedition supported a reasonable suspicion that defendant was involved in the residential burglary. We find that they did.

Before the stop, Deputy Haresh had been told by the dispatcher to be on the lookout for "two Hispanic male adults" with shotguns in a green Ford Expedition. About 10 minutes later, Deputy Haresh stopped a green Ford Expedition "[s]everal miles" away from Buttercup Lane, where the residential burglary had taken place. At the time of the stop, Deputy Haresh believed the car had "several occupants." There was no other "traffic regarding other green Expeditions."

Taken together, this information provided a reasonable suspicion that defendant was involved in the residential burglary. The car Deputy Haresh stopped was the same make and color as the one used in the getaway, it was stopped within miles of the burglary just 10 minutes after the crime, no other cars matching the dispatcher's description were seen nearby, and the car had at least two occupants, which was the number of burglary suspects.

Despite this evidence, defendant places great weight on the fact that Deputy Haresh believed the car contained "several occupants" whereas the burglary involved only two. Our response to defendant is simple: just because Deputy Haresh believed the car had "several occupants" when he stopped it as opposed to only two was not fatal to the finding of reasonable suspicion because there was nothing in the dispatch call that limited the number of people in the car to simply two.

Considering the "totality of circumstances" (*People v. Souza* (1994) 9 Cal.4th 224, 231) we have just recounted, Deputy Haresh's stop of the green Ford Expedition was reasonable, and

the court did not err as a matter of law in denying defendant's suppression motion.

DISPOSITION

The judgment is affirmed.

ROBIE, J.

We concur:

SIMS, Acting P.J.

CANTIL-SAKAUYE, J.